

**BOISE, WEDNESDAY, FEBRUARY 8, 2012 AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**IN THE MATTER OF THE PETITION FOR )  
DELIVERY CALL OF A&B IRRIGATION )  
DISTRICT FOR THE DELIVERY OF )  
GROUND WATER AND FOR THE )  
CREATION OF A GROUND WATER )  
MANAGEMENT AREA. )**

**----- )  
A & B IRRIGATION DISTRICT, )**

**Petitioner-Appellant, )**

**v. )**

**IDAHO DEPARTMENT OF WATER )  
RESOURCES and GARY SPACKMAN, in )  
his official capacity as Interim Director of the )  
IDAHO DEPARTMENT OF WATER )  
RESOURCES, )**

**Docket No. 38403/38421/38422**

**Defendants-Respondents, )**

**and )**

**THE IDAHO GROUND WATER )  
APPROPRIATORS, INC.; THE CITY OF )  
POCATELLO; FREMONT MADISON )  
IRRIGATION DISTRICT; ROBERT & SUE )  
HUSKINSON; SUN-GLO INDUSTRIES; )  
VAL SCHWENDIMAN FARMS, INC.; )  
DAVID SCHWENDIMAN FARMS, INC.; )  
DARRELL C. NEVILLE; SCOTT C. )  
NEVILLE; STAN D. NEVILLE, )**

**\_\_\_\_\_  
Cross Appellants. )**

Appeal from the District Court of the Fifth Judicial District, State of Idaho,  
Minidoka County. Hon. Eric J. Wildman, District Judge.

Barker, Rosholt & Simpson, LLP, Twin Falls, for appellants.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

This case involves the Director (Director) of the Idaho Department of Water Resources' (IDWR) application of the Rules for Conjunctive Management of Surface and Ground Water Resources (CM Rules), IDAPA 37.03.11 *et sequitur*, in response to a ground water to ground water delivery call filed by the A&B Irrigation District (A&B). The Director's Final Order found that A&B was not materially injured and was affirmed by the district court on nearly all points. A&B now appeals to this Court, contending that the Director and the district court erred in their analyses. Cross-appeals by the City of Pocatello (Pocatello) and the Idaho Ground Water Appropriators, Inc. (IGWA) allege that the district court erred by requiring that the Director's finding of no material injury must be supported by clear and convincing evidence, rather than a preponderance of the evidence.

**BOISE, WEDNESDAY, FEBRUARY 8, 2012 AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**THE WATKINS COMPANY, LLC, an Idaho )  
limited liability company, )**

**Plaintiff/Respondent/Cross-Appellant, )**

**v. )**

**Docket No. 37685**

**MICHAEL STORMS and KATHY )  
BURGGRAF, )**

**Defendants/Appellants/Cross- )  
Respondents. )**

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Appeal from the District Court of the Seventh Judicial District, State of Idaho,  
Bonneville County. Hon. Joel E. Tingey, District Judge.

Cox, Ohman & Brandstetter, Chartered, Idaho Falls, for appellant.

Thomsen, Stephens Law Offices, PLLC, Idaho Falls, for appellant.

Smith, Driscoll & Associates, PLLC, Idaho Falls, for respondent.

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Appellants Michael Storms and Kathy Burggraf appeal the district court's decision finding that the appellants had materially breached the commercial lease between them and the Watkins Company, LLC's predecessor in interest, Watkins and Watkins. The parties had entered into a thirty-year lease for a restaurant and microbrewery in Idaho Falls, Idaho. Watkins filed a lawsuit in November 2008 seeking to enforce the lease after Storms and Burggraf failed to pay the rent timely. The issues were tried before the court, which found that Storms and Burggraf had materially breached the lease and that Watkins could regain possession of the property. The district court also found that Storms and Burggraf had been unjustly enriched by failing to pay rent for additional storage space. Further the district court found that the lease's provision for accelerated rent was unconscionable. Storms and Burggraf have appealed the district court's decision arguing that an accord and satisfaction had been reached between the parties and that it had erred in its finding of the rent for the upstairs storage area above the restaurant. Watkins argues on cross-appeal that the district court based its finding regarding the accelerated rent on insufficient evidence.

**BOISE, WEDNESDAY, FEBRUARY 8, 2012 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>JESUS HURTADO and JOHN REITSMA,</b>	)	
<b>d/b/a J &amp; J CALF RANCH,</b>	)	
	)	
<b>Plaintiffs-Respondents-Cross</b>	)	
<b>Appellants,</b>	)	<b>Docket No. 38406</b>
<b>v.</b>	)	
	)	
<b>LAND O'LAKES, INC., a Minnesota</b>	)	
<b>corporation; LAND O'LAKES PURINA</b>	)	
<b>FEED, LLC;</b>	)	
	)	
<b>Defendant-Appellants-Cross</b>	)	
<b>Respondents,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>VALLEY CO-OP'S, INC., an Idaho</b>	)	
<b>corporation,</b>	)	
	)	
<b>Defendants-Cross Respondent,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>JOHN DOES and JANE DOES 1-X; JOHN</b>	)	
<b>DOE CORPORATIONS 1-V,</b>	)	
	)	
<b>Defendants.</b>	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Maguire & Penrod, Pocatello, for Appellants.

Law Office of Harry DeHaan, Twin Falls, for Respondents.

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This appeal arises from a products liability action brought by Jesus Hurtado and John Reitsma against Land O'Lakes, Inc. (Land O'Lakes). Hurtado and Reitsma (Hurtado) alleged that the Land O'Lakes milk replacer they used to feed their calves was defective and caused the death of over 100 dairy calves. A jury found in favor of Hurtado and awarded damages. Land O'Lakes appeals, arguing that the district court improperly admitted expert testimony and that Hurtado failed to prove both liability and damages. Land O'Lakes asks this Court to vacate the

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judgment of the district court and enter judgment in its favor or, alternatively, to vacate the judgment and order a new trial. Hurtado filed a cross-appeal from the district court's decision limiting Hurtado's recovery of attorney fees at trial.